

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Simeon FURRER et al.

Serial No: 10/614,523

Filed: July 3, 2003

For: DIGITAL BASEBAND SYSTEM

Examiner: Williams,
Lawrence

Art Unit: 2611

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal and before filing of an Appeal Brief.

The review is requested for the reasons stated on the attached sheets totaling five (5) or fewer pages.

Respectfully submitted,

Dated: January 29, 2008

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REASONS FOR REQUEST FOR REVIEW

I. Prima Facie Case Fails for Claims 1, 19, 20, and 28

The Examiner argues, "though not shown, a mode line or an equivalent would be inherent in the design of Lewin since the design as shown in Figs. 5 and 6 is bi-directional between the transceivers". For example, as shown in FIG. 6 of the Lewin patent, there is a line for signal TxENABLE to switch signal processing unit 84 to a transmit mode. In addition, there is a line for signal RxENABLE to switch signal processing unit 82 to a receive mode. However, there is no signal RxENABLE to switch signal processing unit 84 to a receive mode. Likewise, there is no signal TxENABLE to switch signal processing unit 82 to a receive mode.

In contrast, independent claim 1, for example, recites a mode line connected to each signal processing unit for switching each signal processing unit between a transmit mode and a receive mode. The Lewin patent fails to disclose such because it only discloses switching one of the signal processing units to transmit and the other signal processing unit to receive. In other words, the identified signals in FIG. 6 fail to switch each signal processing unit to both transmit and receive. Independent claims 20 and 28 recite features similar to claim 1.

Further addressing the inherency argument, the Examiner asserts that a mode line or its equivalent is required because the Lewin design would not function if the transceivers were not all operating in the same mode. Such an argument ignores a connectionless protocol in which data can be sent from one signal processing unit to another without any prior arrangement and/or under the direction of a mode line connected to each signal processing unit to

control the transmitting and receiving of a respective signal processing unit.

For example, signal processing unit 84 uses HDLC (see FIG. 6), and HDLC has three operational modes, which include Normal Response Mode ("NRM"), Asynchronous Response Mode ("ARM"), and Asynchronous Balanced Mode ("ABM"). Both the ARM and ABM modes permit a signal processing unit to transfer frames without receiving instructions for such externally. Stated another way, there are many protocols available where groups of signal processing units can bi-directionally transmit without the need for a mode line connected to each signal processing unit to control such transmissions. As a result, the Examiner fails to meet the standard outlined in MPEP 2112 § IV that states, "the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic", and/or, "in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art".

Accordingly, it is submitted that independent claims 1, 20, and 28 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

II. Prima Facie Case Fails for Claims 2, 3, 17, and 18

The Examiner cites the following excerpts from the Brown patent:

"The controller 1106 takes care of the forward error correction, error detection (i.e. CRC calculations), payload extraction, ARC (Automatic Repeat Request) and flow control, along with general control functions." See column 25, lines 48-51.

And, "The RX/TX state machine 1242 performs radio state control and the selection and sequencing of processing actions through FEC, dewhiten, etc. This is a pre-determined sequence of on-off control of the blocks that make up the radio 1102 and data processing 1218-1238, depending on which top-level state is required and what packet type is being processed." See column 26, lines 44-50.

In contrast, independent claim 2, for example, recites a control line to which each signal processing unit is connected, the control line communicating flow control information to stall at least one of the preceding signal processing units for feedback control of the signal processing units. The Brown patent fails to disclose such because it teaches "a pre-determined sequence of on-off control of the blocks that make up the radio 1102 and data processing 1218-1238, depending on which top-level state is required and what packet type is being processed." In other words, the Brown patent teaches turning on-off the data processing in each signal processing unit 1219, 1222, 1226, and 1230 block, but fails to teach that such is for feedback control of the signal processing units as a group.

Independent claim 3 recites features similar to claim 2. Accordingly, it is submitted that independent claims 2 and 3 are patentable over the prior art. Their respective dependent claims, which recite yet further

distinguishing features, are also patentable over the prior art and require no further discussion herein.

III. Prima Facie Case Fails for Claims 21 and 22

The Examiner correctly notes that both the Lin and the Lee patents fail to disclose the claimed control line. Independent claim 21, for example, recites a control line to which each signal processing unit is connected, with the control line communicating flow control information to stall at least one of the preceding signal processing units for feedback control of the signal processing units. As argued above in section II, the Brown patent also fails to disclose such a control line. Independent claim 22 recites features similar to claim 21. Accordingly, it is submitted that independent claims 21 and 22 are patentable over the prior art.

IV. Prima Facie Case Fails for Claims 4, 7, 10, 13, and 16

Each of the claims 4, 7, 10, 13, and 16 are based on a claim patentable over the Lewin patent, as argued above in section I. The Sambamurthy, Koseki, and Freiburg patents fail to disclose the claimed mode line that the Lewin patent also failed to disclose. Consequently, claims 4, 7, 10, 13, and 16 are patentable because all of the proposed combinations fail to disclose all the claimed recitations.

V. Prima Facie Case Fails for Claims 5, 6, 8, 9, 11, 12, 14, and 15

Each of the claims 5, 6, 8, 9, 11, 12, 14, and 15 are based on a claim patentable over the Brown patent, as argued above in section II. The Sambamurthy, Koseki, and Freiburg patents fail to disclose the claimed control line

to stall at least one of the preceding signal processing units for feedback control of the signal processing units that the Brown patent also failed to disclose. Consequently, claims 5, 6, 8, 9, 11, 12, 14, and 15 are patentable because all of the proposed combinations fail to disclose all the claimed recitations.

VI. Correction of the Advisory Action Requested

A corrected Advisory Action form PTOL-303 needs to be added to the record to avoid future confusion. It is noted that no amendments were proffered after the Final Rejection was issued. As a result, line items 3 and 7 on form PTOL-303 should not be checked. In addition, Applicants requested reconsideration on page 2 of the document entitled "Response to Office Action Dated September 28, 2007". Consequently, line item 11 on form PTOL-303 should be checked and a reason for denial of the reconsideration supplied.

Dated: January 29, 2008

Respectfully submitted,

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